



PUBLIC SERVICE
EMPLOYEE RELATIONS BOARD

1985-86

annual report



PUBLIC SERVICE
EMPLOYEE RELATIONS BOARD

ANNUAL REPORT
for the
FISCAL YEAR ENDING MARCH 31, 1986

PUBLISHED BY AUTHORITY OF THE
PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

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To Her Honour
W. Helen Hunley
Lieutenant Governor of the Province of Alberta

May it please your Honour,

On behalf of the Public Service Employee Relations Board, I respectfully submit to you the Annual Report for the period from April 1, 1985, to March 31, 1986, pursuant to the requirements of Section 77 of the Public Service Employee Relations Act, Revised Statutes of Alberta, 1980, Chapter P-33 and amendments thereto.

Respectfully submitted,

Neil Crawford
Government House Leader

To: The Honourable Neil Crawford
Government House Leader

Sir:

I have the honour to submit to you, on behalf of the Public Service Employee Relations Board, the Annual Report of the Board for the fiscal period April 1, 1985, to March 31, 1986.

Respectfully yours,

Catherine A. Fraser
Chairman



personnel

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

Chairman — Catherine A. Fraser, Q.C.

Alternate Chairman — Thomas W. Wakeling

Members —

Thomas K. Biggs

Jack Dyck

A. Rodrick Turpin

Executive Director — John F. Elsinga

Secretary — Gordon P. Procinsky



OF THE

PUBLIC SERVICE EMPLOYEE RELATION BOARD

FOR FISCAL PERIOD ENDING MARCH 31, 1986

introduction

The Public Service Employee Relations Act, Revised Statutes of Alberta 1980, Chapter P-33 came into force on September 22, 1977, upon proclamation by Order in Council 965/77, and was amended twice in 1983, and again in 1985.

Section 17 of the statute embraces the right of an employee to be a member of and to participate in the lawful activities of a trade union, and to bargain collectively with an employer through a bargaining agent. The Act prescribes final and binding arbitration for the resolution of collective bargaining disputes and prohibits strike or lockout action. An employer and bargaining agent may at any time in their collective bargaining make joint application for the appointment of a mediator to assist in settling their dispute.

The legislation also requires that every collective agreement contain a procedure for the resolution of differences between the contracting parties as to the interpretation, application, operation or alleged contravention of their collective agreement.

The Public Service Employee Relations Act describes in considerable detail the basis upon which employees are to be included in or excluded from a bargaining unit of employees. In that regard Sections 9 and 21 of the Act confer authority upon the Public Service Employee Relations Board to make final and binding determinations where the bargaining agent and employer are unable to settle the matter of employee status for collective bargaining purposes.

Section 48 of the Act precludes the referral of certain items in dispute between the bargaining parties to arbitration. The Public Service Employee Relations Board has the responsibility and authority under the statute to make such determinations, a function that is an integral part of the Board's activities with respect to each application it receives seeking the establishment of an arbitration board for the resolution of a collective bargaining dispute.

Part 8 of the Act prohibits employees, trade unions and persons acting on their behalf from engaging in certain activities commonly referred to as unfair practices. In this part of the statute, the Public Service Employee Relations Board is given authority to inquire into complaints alleging such unfair practices and to impose remedial action when satisfied upon inquiry as to the substance of the complaint.

overview

The statistical information contained elsewhere in this report will disclose a decrease in the Board's caseload for the 1985-86 fiscal year in comparison to the preceeding year's record of activities. This reduction is reflected in almost every category of application and proceeding in which the Board normally participates. In part this may be attributed to the fact that in the case of several collective bargaining situations, negotiations and extensive arbitration proceedings that commenced in 1984 were not concluded until well into the current reporting period. This pre-occupation by the parties with the bargaining process is evidenced as well by the relatively small number of grievance adjudication awards filed with the Board during the year under review.

The Public Service Employee Relations Act was amended during 1985. The amendments, introduced in the Legislature as Bill 30, the Public Service Employee Relations Amendment Act, 1985, came into force on June 5, 1985. The changes reflected in that Bill focussed primarily on procedural matters relating to the establishment of arbitration boards, the grievance adjudication process to be contained in collective agreements and the duty of an employer or bargaining agent to bargain collectively in good faith.

With one exception, the composition of the Board remained constant and was extended by two-year appointments for the Chairman, Alternate Chairman and three members by Order in Council 704/85, effective November 1, 1985. A further appointment to fill the vacancy created by the appointment of Mr. Leslie Miller as a full-time member of the Surface Rights Board earlier in 1985 is to be made.

Judicial review proceedings were initiated during the reporting year with respect to two of the Boards' decisions, in both instances affecting an application for the certification of a bargaining agent. One of these was subsequently withdrawn. In addition, one judgement was received during this year from the Alberta Court of Appeal while three other cases remain active at that level of the judicial process.

application

The Public Service Employee Relations Act governs collective bargaining and related matters for more than 45,000 public service employees and their employers within the province of Alberta. The majority of those employees are employed directly by the Crown in right of Alberta in the various departments of the provincial government's administration. They are represented by The Alberta Union of Provincial Employees as their bargaining agent, and function under a common Master collective agreement and twelve supplementary contracts, structured on occupational groupings.

Other employers and their employees to whom the Public Service Employee Relations Act applies include the following:

- Corporations — Alberta Mortgage and Housing Corporation
 - Alberta Oil Sands Technology and Research Authority
 - Alberta Opportunity Company
 - Hail Crop Insurance Corporation
- Commissions — Alberta Alcoholism and Drug Abuse Commission
 - Alberta Petroleum Marketing Commission
 - Alberta Racing Commission
- Universities (academic staff excluded)
 - Athabasca University
 - University of Alberta
 - University of Calgary
 - University of Lethbridge
- Colleges (academic staff excluded)
 - Banff Centre
 - Fairview College
 - Grande Prairie Regional College
 - Grant MacEwan Community College
 - Keyano College
 - Lakeland College
 - Lethbridge Community College
 - Medicine Hat College
 - Mount Royal College
 - Olds College
 - Red Deer College
- Technical Institutes (academic staff excluded)
 - Southern Alberta Institute of Technology
 - Northern Alberta Institute of Technology
 - Westerra Institute of Technology

Hospitals	— Alberta Children's Provincial General Hospital
	— Foothills Povincial General Hospital
	— Glenrose Rehabilitation Hospital
	— Alberta Cancer Board
	— University Hospitals Board
	— The Mental Health Hospital Board, Edmonton
Boards	— The Mental Health Hospital Board, Ponoka
	— Teacher's Retirement Fund Board
	— Workers' Compensation Board
	— Alberta Liquor Control Board (Selected offices or departments only)
Councils	— Alberta Research Council

administration & personnel

The Public Service Employee Relations Board is responsible for the administration of the Public Service Employee Relations Act, and is established pursuant to Section 3 of the Act. The Chairman, Alternate Chairman and three members were all re-appointed in their respective capacities for two-year terms by Order in Council 704/85 dated October 16, 1985, effective November 2, 1985.

During the course of its nine years of operation, the Board has developed rules of procedure in the form of administrative guides to govern the conduct of its business and proceedings before it. The Board's authority in this regard is set out in Section 6 of the Public Service Employee Relations Act.

significant cases

On December 7, 1984, the Alberta Court of Appeal issued its judgement in response to a Reference made to it by the government of the Province of Alberta. In this Reference, the Court was asked for an opinion as to whether certain provisions in the Public Service Employee Relations Act interfered with the freedom of association of employees as dealt with particularly in Section 2 of the Canadian Charter of Rights and Freedoms.

An appeal from that judgement was launched by The Alberta Union of Provincial Employees and heard by the Supreme Court of Canada in the summer of 1985. The case was subsequently adjourned for decision and consolidated with a number of similar actions initiated in other parts of Canada for the purposes of disposition by the Supreme Court of Canada. (Ref. re Pub. Service, etc. (Alta.) (1985) 2 W.W.R. 289)

judicial review - cases

Decisions of the Public Service Employee Relations Board which were the subject of judicial review during the reporting period include the following:

1. The University of Alberta Non-Academic Staff Association,
Edmonton, Alberta
(Appellant)
and
The Public Service Employee Relations Board, Edmonton, Alberta,
(Appellant)
and
The Board of Governors, University of Alberta,
Edmonton, Alberta,
(Respondent)

The Alberta Court of Appeal dismissed the appeal from a judgement of the Court of Queen's Bench in which it was held that the Board was prohibited by its constituent statute from referring two additional arbitral items to an arbitration board once that board had been established and provided with a list of arbitral items it was to resolve.
(PSERB Ref. 140-069-520)

2. The Mental Health Hospital Board, Edmonton,
of Edmonton, Alberta
(Appellant)
and
The Alberta Union of Provincial Employees,
Edmonton, Alberta
(Respondent)
and
Lydia P. Ricafort, Calgary, Alberta
(Respondent)
The Public Service Employee Relations Board
Edmonton, Alberta
(Respondent)

These proceedings in the courts commenced with a decision issued by the Board on March 23, 1984, regarding a complaint pursuant to Section 71 of the Act. The Board's decision was affirmed in a judgement by the Court of Queen's Bench issued July 15, 1984.

An appeal from that judgement was heard on March 7, 1985, by the Alberta Court of Appeal. This decision remains outstanding.
(PSERB Ref. 160-11-502)

3. The Foothills Provincial General Hospital,
Calgary, Alberta
(Appellant)
and
The Health Sciences Association of Alberta,
Edmonton, Alberta
(Respondent)

This is an appeal from the judgement of the Court of Queen's Bench issued May 19, 1985, in which the decision of the Board dated December 21, 1984, was upheld. The Board's decision and reasons dealt with determinations as to the bargaining unit status of a number of persons employed by the Foothills Provincial General Hospital. The Alberta Court of Appeal has not set a date for hearing in this matter.
(PSERB Ref. 100-041-506-6)

4. Her Majesty The Queen in right of the Province of Alberta,
Edmonton, Alberta
(Applicant)
and
The Alberta Union of Provincial Employees,
Edmonton, Alberta
(Respondent)
and
The Public Service Employee Relations Board,
Edmonton, Alberta
(Respondent)

These proceedings commenced with a decision of the Board and Reasons issued on December 31, 1984. By application to the Court of

Queen's Bench, the Applicant requested the Court to quash certain of the Board's determinations on the arbitrability of items claimed in dispute. In a judgement issued April 15, 1985, the Court upheld the Board's determinations in respect of all but one matter.

An appeal from this judgement is anticipated.
(PSERB Ref. 140-001-502)

5. The Alberta Union of Provincial Employees,
Edmonton, Alberta
(Applicant)
and
The Alberta Association of Registered Nursing Assistants,
Edmonton, Alberta
(Respondent)
and
The Public Service Employee Relations Board,
Edmonton, Alberta
(Respondent)

The applicant requested the Court of Queen's Bench to quash a decision issued by the Board on May 3, 1985, affecting an application to displace an incumbent certified bargaining agent. The judgement of the Court issued on May 28, 1985, upheld the initial decision of the Board to grant certification.

An appeal from this judgement has been commenced.
(PSERB Ref. 115-037-508)

6. The Alberta Union of Provincial Employees,
Edmonton, Alberta
(Applicant)
and
The Alberta Association of Registered Nursing Assistants,
Edmonton, Alberta
(Respondent)
and
The Foothills Provincial General Hospital, Calgary, Alberta
(Respondent)
and
The Public Service Employee Relations Board,
Edmonton, Alberta
(Respondent)

This action originated with a decision by the Board issued on June 17, 1985, affecting an application to displace an incumbent certified bargaining agent. The action was discontinued following a determination by the Board that the trade union applying for certification did not enjoy majority support of the affected employees.
(PSERB Ref. 115-041-508)

ANNUAL STATISTICS AND COMPARATIVE DATA

April 1, 1985, to March 31, 1986

Section of Act	Nature of Application		Disposition		
			1983/84	1984/85	1985/86
9	Determinations	Granted	5	5	4
		Dismissed	0	0	1
		Withdrawn	3	2	1
		Outstanding	5	2	0
11	Reconsideration	Granted	1	3	0
		Outstanding	2	0	0
		Refused	0	8	3
23	Professional Exclusion	Granted	0	0	0
		Refused	0	0	0
		Outstanding	0	0	0
25	Certification	Granted	2	1	2
		Refused	0	1	2
		Withdrawn	0	0	0
		Outstanding	1	2	0
32	Revocation	Granted	0	0	0
		Refused	0	0	0
		Outstanding	0	0	0
39	Failure to Bargain in Good Faith	Granted	1	0	0
		Refused/Dismissed	0	2	0
		Withdrawn	0	0	0
46	Appointment of Mediator	Granted	1	4	4
		Withdrawn	0	0	1
49	Establish Arbitration Board	Granted	8	10	4
		Refused	1	6	11
		Withdrawn	4	4	14
		Outstanding	2	11	0
52	Appointment Chairman & Member Arbitration Board	Granted	3	3	2
		Refused	0	0	0
		Withdrawn	0	0	0
64	Appointment of Adjudicator	Granted	0	1	7
		Withdrawn	1	0	0
		Refused	0	1	0
74	Unfair Practice Complaints	Granted	0	0	0
		Dismissed	0	0	1
		Refused/Withdrawn	0	2	1
		Outstanding	1	1	0
90	Successor Trade Union	Granted	0	2	0
		Dismissed/ Withdrawn	2	0	1

Days of Board Hearings	— 1982/83	41 Days
	— 1983/84	26 Days
	— 1984/85	39 Days
	— 1985/86	24 Days

Estimated number of employees affected by Certification		
	— 1982/83	2,962
	— 1983/84	325
	— 1984/85	185
	— 1985/86	329

Total applications disposed of		
	— 1982/83	105
	— 1983/84	29
	— 1984/85	55
	— 1985/86	36

Total applications outstanding		
	— 1982/83	4
	— 1983/84	9
	— 1984/85	16
	— 1985/86	0

budgetary review

Approved Manpower and Operating Costs

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

		% Change
1982/83	687,370*	+51.3*
1983/84	411,676**	-40.1***
1984/85	522,313***	+26.9***
1985/86	393,259	-32.8

* includes \$350,000 Special Warrant.

** includes \$77,000 Special Warrant.

*** includes \$194,000 Special Warrant.

in appreciation

The Board takes this opportunity to publicly express its appreciation to the Honourable Neil Crawford and his Executive Assistant, Mr. John Scrimshaw for their assistance and cooperation in dealing with the concerns of the Board throughout this past year.

